

§ 107.333

- (b) The extent and gravity of the violation;
- (c) The degree of the respondent's culpability;
- (d) The respondent's prior violations;
- (e) The respondent's ability to pay;
- (f) The effect on the respondent's ability to continue in business; and
- (g) Such other matters as justice may require.

[Amdt. 107-11, 48 FR 2651, Jan. 20, 1983, as amended by Amdt. 107-30, 58 FR 50500, Sept. 27, 1993; Amdt. 107-38, 61 FR 21100, May 9, 1996]

CRIMINAL PENALTIES

§ 107.333 Criminal penalties generally.

A person who knowingly violates § 171.2(g) or willfully violates a provision of the Federal hazardous material transportation law or an order or regulation issued thereunder shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

[Amdt. 107-11, 48 FR 2651, Jan. 20, 1983, as amended by Amdt. 107-32, 59 FR 49131, Sept. 26, 1994]

§ 107.335 Referral for prosecution.

If the Associate Administrator for Hazardous Materials Safety becomes aware of a possible willful violation of the Federal hazardous material transportation law, this subchapter, subchapter C of this chapter, or any exemption, or order issued thereunder, for which the Associate Administrator for Hazardous Materials Safety exercises enforcement responsibility, it shall report it to the Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001. If appropriate, the Chief Counsel refers the report to the Department of Justice for criminal prosecution of the offender.

[Amdt. 107-11, 48 FR 2651, Jan. 20, 1983, as amended by Amdt. 107-22, 55 FR 39978, Oct. 1, 1990; Amdt. 107-24, 56 FR 8621, Feb. 28, 1991; 56 FR 15510, Apr. 17, 1991; Amdt. 107-32, 59 FR 49131, Sept. 26, 1994; Amdt. 107-35, 60 FR 49108, Sept. 21, 1995]

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§ 107.336 Limitation on fines and penalties.

If a State or political subdivision or Indian tribe assesses any fine or penalty determined by the Secretary to be appropriate for a violation concerning a subject listed in § 107.202(a), no additional fine or penalty may be assessed for such violation by any other authority.

[Amdt. 107-24, 56 FR 8624, Feb. 28, 1991]

INJUNCTIVE ACTION

§ 107.337 Injunctions generally.

Whenever it appears to the Office of Chief Counsel that a person has engaged, or is engaged, or is about to engage in any act or practice constituting a violation of any provision of the Federal hazardous material transportation law, this subchapter, subchapter C of this chapter, or any exemption, or order issued thereunder, for which the Office of Chief Counsel exercises enforcement responsibility, the Administrator, RSPA, or his delegate, may request the Attorney General to bring an action in the appropriate United States District Court for such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages as provided by 49 U.S.C. 5122(a).

[Amdt. 107-11, 48 FR 2651, Jan. 20, 1983, as amended by Amdt. 107-32, 59 FR 49131, Sept. 26, 1994]

§ 107.339 Imminent hazards.

Whenever it appears to the Office of the Chief Counsel that there is a substantial likelihood that death, serious illness, or severe personal injury will result from the transportation of a particular hazardous material or hazardous materials container, before a compliance order proceeding or other administrative hearing or formal proceeding to abate the risk of that harm can be completed, the Administrator, RSPA, or his delegate, may bring an action under 49 U.S.C. 5122(b) in the appropriate United States District Court for an order suspending or restricting the transportation of that hazardous material or those containers or for